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CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

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Attorneys for Plaintiffs A.R. and S.R.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

A.R. and S.R. by and through their  
*Guardian Ad Litem* Elizabeth Rodriguez

Plaintiffs,

vs.

County Of San Bernardino, Hesperia Unified School District, Rodd Hopps, San Bernardino County Sheriff (official capacity), Gary Penrod, San Bernardino Sheriff (official capacity), Hesperia Unified School District Chief of Police (official capacity); San Bernardino County Deputy Sheriff Joseph Neccochea (official and individual capacity), San Bernardino County Deputy Sheriff G. Jioboda (official and individual capacity), San Bernardino County Deputy Sheriff S. Lafond, (official and individual capacity), San Bernardino County Deputy Sheriff D. Booker (official and individual capacity), Hesperia Unified School District Officer Mike Graham (official and individual capacity); Hesperia Unified School District Officer William Holland (official and individual capacity), And Does 1 Through 10,

Defendants.

Case No.: **CV10-3528 DDP(MAN)**  
COMPLAINT FOR DAMAGES  
AND INJUNCTIVE RELIEF  
BASED ON:

- 1) Civil Rights 42 U.S.C. § 1983;
- 2) Conspiracy 42 U.S.C. § 1985 (3)
- 3) Right to Familial Association (First & Fourteenth Amendment)
- 4) Right to Counsel (Sixth Amendment)

DEMAND FOR JURY TRIAL

LODGED

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES

## I. PREFATORY

1. This is an action for damages and injunctive relief for personal injuries suffered by the Plaintiffs as a result of, *inter alia*, the wrongful denial of due process and other constitutional and statutory rights under federal and state law.

## II. JURISDICTION AND VENUE

2. Plaintiffs' actions are authorized by 42 U.S.C. § 1983, which provides for redress for the deprivation under color of state law of rights secured by the Constitution and the laws of the United States. This court has jurisdiction over the subject matter of this action pursuant to Title 28, United States Code, §§ 1331, 1332, and 1333(3), providing for jurisdiction in this Court of suits authorized by 42 U.S.C. § 1983 to redress the deprivation under color of state law of any right, privilege, or immunity secured by the Constitution of the United States, and by 28 U.S.C. § 1333(4), providing for protection of civil rights.

3. Federal supplemental jurisdiction over state law claims is conferred by 28 U.S.C. 1337.

4. This Court has authority to provide declaratory and injunctive relief in this case pursuant to 28 U.S.C. §§ 2201 and 2202.

5. Venue is proper in the Central District of California in that the wrongs alleged herein occurred within this judicial district.

6. Further, Plaintiffs are informed and believe and on that basis allege that each of the named Defendants resides or is located in this judicial district.

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FEDERAL COMPLAINT

### III. PARTIES

7. Plaintiff A.R. is a minor and at all times relevant was a resident of the County of San Bernardino, California.

8. Plaintiff S.R. is a minor and at all times relevant was a resident of the County of San Bernardino, California.

9. Plaintiffs are informed and believes, and based thereon alleges, that at all times relevant hereto, Defendant County of San Bernardino, is a public entity existing pursuant to the laws of the State of California. Defendant, County of San Bernardino is and at all times herein mentioned was, a legal subdivision of the State of California, under California Constitution, Article 11, Section 1(a), and Government Code § 23012, and is a “public entity,” as that term is defined in Government Code § 811.2. San Bernardino County operates the San Bernardino County Sheriff, the San Bernardino County Public Defender. Defendant County of San Bernardino is responsible for the acts of its employees committed during the course and scope of their employment pursuant to Government Code Section 815.2.

10. In addition, Defendant County of San Bernardino provided law enforcement, criminal investigation and other criminal law services for the City of Hesperia.

11. Defendant, San Bernardino Sheriff, is an agency, department and/or unit of San Bernardino County designated to among other things, provide law enforcement for crimes occurring within its jurisdiction. At all times relevant herein, and for all purposes connected with the implementation of the Sheriff's maintained policies and practices concerning, law enforcement and criminal investigations and juvenile civil rights, the Sheriff delegated its final policy-making authority to Defendants mentioned herein.

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1       12. Defendant Hesperia Unified School District (“HUSD” or “District”) is  
2 a public school district and a political subdivision of the State of California and  
3 was at all times mentioned herein the recipient of certain federal funds because it  
4 operates public programs for students and the District had at all times mentioned  
5 herein the responsibility of providing school children full and equal access to the  
6 public educational programs and activities offered in its district in compliance with  
7 the requirements of state and federal law. Defendant District’s responsibilities  
8 include administering the state system of public education. Furthermore, HUSD is  
9 responsible to ensure that students and their private information is not needlessly  
10 divulged to third parties. Moreover, the District was and continues to be at all  
11 times mentioned herein responsible for the training, supervision, discipline and  
12 monitoring of its police force.

13       13. Rodd Hopps, is the Sheriff of the County of San Bernardino. He is  
14 being sued in his official capacity. In doing the things alleged to have been done  
15 as well as the omissions stated herein, Hopps acted under color of state law, within  
16 the course and scope of his employment, and/or as an official policy maker for the  
17 Sheriff.

18       14. Gary Penrod, is the Sheriff of the County of San Bernardino. He is  
19 being sued in his official capacity. In doing the things alleged to have been done  
20 as well as the omissions stated herein, Penrod acted under color of state law, within  
21 the course and scope of his employment, and/or as an official policy maker for the  
22 Sheriff.

23       15. Defendant Joseph Necoochea, Badge number 735 is a San Bernardino  
24 County Deputy Sheriff. He is being sued in his official and individual capacity. In  
25 doing the things alleged to have been done as well as the omissions stated herein,  
26 Necoochea acted under color of state law, within the course and scope of his  
27 employment, and/or as an official policy maker for the Sheriff.

1       16. G. Jiboda, Badge number S3558 is a San Bernardino County Deputy  
2 Sheriff. He is being sued in his official and individual capacity. In doing the  
3 things alleged to have been done as well as the omissions stated herein, Jiboda  
4 acted under color of state law, within the course and scope of his employment,  
5 and/or as an official policy maker for the Sheriff.

6       17. S. Lafond, Badge number D4301 is a San Bernardino County Deputy  
7 Sheriff. He is being sued in his official and individual capacity. In doing the  
8 things alleged to have been done as well as the omissions stated herein, Lafond  
9 acted under color of state law, within the course and scope of his employment,  
10 and/or as an official policy maker for the Sheriff.

11       18. D. Booker, Badge number D8271 is a San Bernardino County Deputy  
12 Sheriff. He is being sued in his official and individual capacity. In doing the  
13 things alleged to have been done as well as the omissions stated herein, Booker  
14 acted under color of state law, within the course and scope of his employment,  
15 and/or as an official policy maker for the Sheriff.

16       19. Hesperia Unified School District Officer Mike Graham is being sued  
17 in his official and individual capacity. In doing the things alleged to have been  
18 done as well as the omissions stated herein, Graham acted under color of state law,  
19 within the course and scope of his employment, and/or as an official policy maker  
20 for the Hesperia Unified School District.

21       20. Hesperia Unified School District Officer William Holland is being  
22 sued in his official and individual capacity. In doing the things alleged to have  
23 been done as well as the omissions stated herein, Holland acted under color of state  
24 law, within the course and scope of his employment, and/or as an official policy  
25 maker for the Hesperia Unified School District.

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1       21. Plaintiffs are ignorant of the true names and capacities of the  
2 Defendants s sued herein as DOES 1-10, inclusive, and therefore sue said  
3 Defendants s under the aforesaid fictitious names. Plaintiffs will amend this  
4 Complaint upon the ascertaining of the true names and capacities of the  
5 Defendants so sued. Plaintiffs is informed and believes and thereon alleges that  
6 each of these fictitiously named Defendants s is responsible in some manner for the  
7 occurrences herein alleged, and that Plaintiffs' injuries as herein alleged were  
8 proximately caused by the aforementioned Defendants.

9       22. Plaintiffs allege that at all times herein mentioned each of the  
10 Defendants were the agent and employees of each of the remaining Defendants  
11 and in doing the things hereinafter alleged, was acting within the course and scope  
12 of such agency and employment.

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14 **GENERAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

15       23. On or about the morning of July 9, 2008 at approximately 7:00AM  
16 Defendants executed a search warrant for the premises located at 8749 Bridgeport  
17 Avenue, Hesperia, California. Said location is the residence of Plaintiffs and their  
18 family. Plaintiffs at that time were still asleep because school was out for summer  
19 at that time and Plaintiffs were and are minors. Plaintiffs' parents were not home at  
20 the time of the incidents described herein.

21       24. The search warrant in this matter set forth the items which were  
22 allegedly stolen and/or used as a means to commit a felony.

23       25. Plaintiffs were awakened and rousted from their beds when  
24 Defendants and all of them made entry into their home by physically breaking  
25 down the front door of the residence. Plaintiffs were startled confused, and  
26 terrified as to what was occurring. During the entire time Defendants were inside  
27 of their residence, Plaintiffs complied with all requests made of them by  
28 Defendants.

1       26. A.R., was assaulted and battered by two Deputy Sheriffs as a result of  
2 the manner in which Defendants executed this search warrant. A.R. was violently  
3 awakened out of his sleep by Defendants breaking down the door to his home.  
4 Defendants forcefully entered A.R.'s, room causing him to be afraid and jump from  
5 his bed. When Defendants entered his room, one Deputy immediately handcuffed  
6 A.R. While handcuffed, another Deputy forcefully assaulted and battered A.R. by  
7 elbowing him in the head. A.R. presented no physical threat or resistance to the  
8 Deputies and complied with all requests made of him by Defendants.

9       27. Plaintiff, S.R., A.R.'s little sister, was nine years old at the time of this  
10 incident. S.R. was rousted from her slumber by the loud, illegal and excessively  
11 physical entrance of Defendants into their home Deputy Sheriffs, whose identity is  
12 unknown to Plaintiffs at this time. Defendants with deadly weapons drawn and  
13 pointed at S.R. at point blank range, ordered S.R. to her knees by pointing a shot  
14 gun in her face. Nine year old S.R. presented no threat, resistance or harm to  
15 Sheriff's Deputies, yet was threatened and terrorized by Defendants in this  
16 unlawful execution of the search warrant and excessive use of force in pointing a  
17 shot gun in her face.

18       28. During the entire time Defendants searched the premises, nine year  
19 old S.R. was made to kneel on the floor with her hands behind her head, and was  
20 guarded the entire time by Defendants with their deadly weapons drawn and  
21 pointed in her direction.

22       29. Plaintiff, A.R. was handcuffed the entire time during the execution of  
23 this deficient warrant.

24       30. Defendants ransacked and searched the property and not one of the  
25 items listed in the search warrant were found to be in the premises or in the  
26 presence of those residing therein.

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31. Notwithstanding the fact that Defendants, including Deputies Neccochea, LaFond, Booker and Jiboda and other San Bernardino County Sheriff's Deputies found absolutely no evidence of any violation of law by either A.R. or S.R. or any evidence of contraband or fruits of crime, or any evidence enumerated in the search warrant. Defendants unlawfully handcuffed and restrained A.R and placed him into their physical and custodial detention without informing him of any charges against him and transported him to the San Bernardino County Sheriff's sub-station in Hesperia, California.

32. At no point during this custodial detention was Plaintiff given his Miranda warnings as A.R. was finally given his Miranda warnings only after arrival at the Sheriff's sub-station.

33. Subsequently, A.R., was transported to a juvenile detention facility. Plaintiff, Armando Rodriguez, was unlawfully detained and held in this facility for a two week period before being afforded the Due Process of an arraignment. After being in custody at the juvenile center for 30 days A.R, was released and informed that he was not the person whom Defendants thought had committed the offenses underlying the search warrant and their detention of him.

34. A.R. is informed and believes that, Defendants, Deputies Neccochea, LaFond, Booker and Jiboda and those unknown Deputies to Plaintiffs, without probable cause or legal justification, agreed to and did maliciously charge Armando Rodriguez, with the following offenses: Robbery and felony carjacking.

35. As a result of Defendants' malicious charges against Plaintiff, A.R. was incarcerated without cause or legal justification by San Bernardino County Sheriff's Deputies for thirty (30) days.

36. Upon information and belief, Plaintiff A.R. was not afforded an attorney during his detention.

1       37. Upon information and reasoned belief the alleged victim was an  
2 elderly white female and did not identify A.R. as the person who had car-jacked  
3 her and/or was mistaken in her identification of A.R. as her alleged attacker.

4       38. Upon information and belief cross racial identification is known to be  
5 unreliable especially in cases where as here, there is an elderly white female  
6 attempting and in fact identifying persons of a different race, national origin and or  
7 ethnicity.

8       39. Upon information and reasoned belief, the alleged victim was an  
9 elderly white female who provided vague descriptions of her alleged car-jackers as  
10 Hispanic males.

11       40. Hesperia Unified School District Officers Holland and Graham  
12 improperly participated in the San Bernardino County Sheriff's investigation into  
13 the alleged crime at issue in this matter.

14       41. Hesperia Unified School District Officers Holland and Graham first  
15 and foremost as employees of HUSD had a duty to ensure the rights of HUSD  
16 stakeholders including Plaintiffs were at all times protected before interjecting  
17 themselves and working on behalf of an elderly white female, even one alleging  
18 that she was the victim of a crime, who was in no way a stakeholder of HUSD.

19       42. Hesperia Unified School District failed to train, supervise and instruct  
20 its peace officers that they have and continue to have a duty to ensure the rights of  
21 HUSD stakeholders including Plaintiffs are at all times protected before  
22 interjecting themselves and working on behalf of an elderly white female, even one  
23 alleging that she was the victim of a crime, who was in no way a stakeholder of  
24 HUSD.

25       43. Hesperia Unified School District failed to train, supervise and instruct  
26 its peace officers that it is a fundamental violation of basic civil rights to violate the  
27 privacy and other statutory and constitutional rights of its Hispanic male students.

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1       44. Hesperia Unified School District Officers Holland and Graham  
2 improperly and unlawfully violated the state and federal privacy rights of Hispanic  
3 male students in the District by “rounding up” information about such students and  
4 providing same to the San Bernardino County Sheriff as likely criminals and in so  
5 doing violated the civil rights of Hispanic male students.

6       45. Hesperia Unified School District Officers Holland and Graham  
7 improperly and unlawfully violated the state and federal privacy rights of A.R. a,  
8 Hispanic male students in the District by “rounding up” his private information and  
9 providing same to the San Bernardino County Sheriff as a likely criminal and in so  
10 doing violated his civil rights due to his race and other protected categories.

11       46. By means of their unlawful detention of A.R., and the malicious  
12 charges they placed against him, Defendants Deputies Neccochea, LaFond, Booker  
13 and Jiboda and those other known and unknown San Bernardino County Sheriff’s  
14 Deputies involved in this incident, intentionally, or with deliberate indifference and  
15 callous disregard of Plaintiffs’ rights, deprived A.R., of his right to be free of  
16 unreasonable searches and seizures, in violation of the Fourth and Fourteenth  
17 Amendments to the Constitution of the United States and 42 U.S.C. §1983 in the  
18 denial of A.R.’s, freedom of liberty, Due Process and procedural Due Process.

19       47. By means of their unlawful detention of S.R., Defendants Deputies  
20 Neccochea, LaFond, Booker and Jiboda, and those known and unknown San  
21 Bernardino County Sheriff’s Deputies involved in this incident, intentionally, or  
22 with deliberate indifference and callous disregard of Plaintiffs’ rights, deprived  
23 S.R., of her right to be free of unreasonable searches and seizures, in violation of  
24 the Fourth and Fourteenth Amendments to the Constitution of the United States  
25 and 42 U.S.C. §1983 in the denial of S.R.’s, freedom of liberty, Due Process and  
26 procedural Due Process.

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1       48. By means of their unlawful detention of A.R., and the malicious  
2 charges they placed against him, Defendants Hesperia Unified School District, and  
3 those other unknown school district Officers, including Officer William Holland  
4 involved in this incident, intentionally, or with deliberate indifference and callous  
5 disregard of Plaintiffs' rights, deprived A.R., of his right to be free of  
6 unreasonable searches and seizures, in violation of the Fourth and Fourteenth  
7 Amendments to the Constitution of the United States and 42 U.S.C. §1983 in the  
8 denial of A.R.'s, freedom of liberty, Due Process and procedural Due Process.

9       49. By means of their unlawful detention of S.R., and the malicious  
10 charges they placed against him, Defendants Hesperia Unified School District, and  
11 those other unknown school district Officers, including Officer William Holland  
12 involved in this incident, intentionally, or with deliberate indifference and callous  
13 disregard of Plaintiffs' rights, deprived S.R., of her right to be free of  
14 unreasonable searches and seizures, in violation of the Fourth and Fourteenth  
15 Amendments to the Constitution of the United States and 42 U.S.C. §1983 in the  
16 denial of S.R.'s, freedom of liberty, Due Process and procedural Due Process.

17       50. The actions of Defendants and Doe Defendants 1 through 10 on July  
18 9, 2008 denied Plaintiffs their Fourth and Fourteenth Amendment rights as  
19 guaranteed by the Constitution of the United States. Defendants, San Bernardino  
20 County Sheriff's Department Deputies Neccochea, LaFond, Booker and Jiboda and  
21 Doe Defendants 1 through 10 while acting in their capacity as Sheriff's Deputies  
22 for the County of San Bernardino, deprived Plaintiffs of rights including but not  
23 limited to: liberty and the freedom from unreasonable search and seizure without  
24 Due Process of law; thereby depriving Plaintiffs of their rights, immunities and  
25 privileges as guaranteed by the Fourth and Fourteenth Amendments of the  
26 Constitution of the United States.

51. Defendants conduct in this case was done with malice, oppression and fraud, amounting to despicable conduct towards Plaintiffs with conscious disregard and deliberate indifference to his health and safety.

52. As a direct of the Defendants actions Plaintiffs suffered injuries and damages in an amount excess of this jurisdiction of this court including but not limited to; violations of his Constitutional right under the Fourteenth Amendments, loss of his physical liberty, physical pain and suffering and emotional trauma.

## **FIRST CAUSE OF ACTION**

***Violation of Civil Rights 42 U.S.C. § 1983***

53. Plaintiffs hereby incorporates and re-alleges each of the allegations contained in above as though fully set forth herein.

54. This is an action for violation of Plaintiffs' civil rights guaranteed under the Constitution of the United States of America. This action is brought pursuant to the authority of 42 United States Code Section 1983. With regard to the Plaintiffs' 42 U.S.C. 1983 action each of the named individual Defendants and Does 1-10 are being sued in their individual capacity.

55. As a proximate result of the Defendants' unlawful, wrongful, malicious, and willful acts, as alleged above, Plaintiffs were injured, and harmed in that Plaintiffs suffered humiliation, shocked, mental anguish, and emotional and physical distress, and has been injured in mind and body, all according to proof.

56. This cause of action is to redress the deprivation, under color of statute, ordinance, regulation, policy, custom practice or usage of a right, privilege, and immunity secured to Plaintiffs by, *inter alia*, the First, Fourth, Sixth and Fourteenth Amendments to the United States Constitution, Family Educational Rights and Privacy Act, and state law including *inter alia*, California Education Code §§ 49073-49079.

1       57. All of the conduct of the Defendants' was malicious and oppressive  
2 and done with the intent to cause Plaintiffs to suffer emotional distress.  
3 Defendants' conduct was done with knowing, willful, malicious, and reckless  
4 disregard for Plaintiffs' protected rights.

5       58. Plaintiffs have a liberty interest in being free from abusive  
6 governmental action and to be accorded procedural and substantive due process of  
7 law. Plaintiffs have a property interest in recovering for his injury and damages  
8 sustained to his person and the violation of his constitutional rights. Plaintiffs also  
9 have a liberty interest in maintaining his personal integrity, dignity, reputation and  
10 honor. All of these rights and privileges secured to Plaintiffs by the provisions of  
11 the First Amendment, Fourth Amendment, and the due process clause of the Fifth  
12 and Fourteenth Amendments to the United States Constitution, and by 42 United  
13 States Code Section 1983. All of these interests were implicated by the wrongful  
14 conduct of the Defendants which legally caused injury and damages to Plaintiffs.

15       59. Defendants acted in concert, and outside the scope of their jurisdiction  
16 and without legal authorization. Each of the Defendants separately and in concert,  
17 acted willfully, intentionally, knowingly, and / or with reckless disregard and  
18 callous indifference to deprive the Plaintiffs of their rights and privileges, and did  
19 in fact violate the rights and privileges. Accordingly, Plaintiffs are entitled to  
20 punitive and exemplary damages against all Does 1-20 Defendants, except the  
21 County of San Bernardino and Hesperia Unified School District, in an amount to  
22 be determined according to proof at trial.

23       60. Defendants are responsible for its employees conduct, pursuant to  
24 Government Code Section 815.2 and Monell v. Department of Social Services, 436  
25 U.S. 658, because of their failure to properly train, supervise, and discipline their  
26 employees. Additionally Defendants County of San Bernardino is liable under  
27 California Government Code Section 815.2.

1       61. "The Equal Protection Clause of the Fourteenth Amendment  
 2 commands that no State shall 'deny to any person within its jurisdiction the equal  
 3 protection of the laws,' which is essentially a direction that all persons similarly  
 4 situated should be treated alike." City of Cleburne v. Cleburne Living Ctr., 473  
 5 U.S. 432, 439 (1985).

6       62. Discrimination based on a protected class is therefore unlawful.

7       63. Minors such as Plaintiffs are a protected class under both California  
 8 state law and/or federal law.

9       64. Hispanic citizens such as Plaintiffs are a protected class under both  
 10 California state law and/or federal law.

11       65. Hispanic males such as Plaintiff A.R. are a protected class under both  
 12 California state law and/or federal law.

13       66. Given the fact that there are thousands of juveniles come into contact  
 14 with the criminal justice system each year, Defendants' failure to provide for  
 15 sufficient training regarding their rights or to implement other procedures to  
 16 safeguard the rights of juveniles amounts to deliberate indifference to these  
 17 persons' rights and denies such persons equal protection of the laws.

18       67. Additionally, California has express statutes and laws that protect the  
 19 rights of students within its schools, including, but not limited to California  
 20 Education Code §§ 49073-49079. Also, the California Constitution includes a  
 21 guarantee that "all students and staff of public primary, elementary, junior high and  
 22 senior high schools have the inalienable right to attend campuses which are safe,  
 23 secure, and peaceful." Cal. Const. Art. I § 28(c).

24       68. The actions of Hesperia Unified School District and its employees  
 25 totally abridged these state statutory and constitutional rights and were outrageous.  
 26 The District's police force is not an agent of San Bernardino County Sheriff, but of  
 27 the District stakeholders which Plaintiffs are.

1       69.     "Liberty is protected from unlawful state deprivation by the due  
 2 process clause of the Fourteenth Amendment." Haygood v. Younger, 769 F.2d  
 3 1350, 1354 (9th Cir. 1985) (en banc). Moreover, "[t]he Supreme Court has  
 4 recognized that an individual has a liberty interest in being free from incarceration  
 5 absent a criminal conviction." Oviatt, 954 F.2d at 1474. As the Court explained:  
 6 [D]epending on what procedures the State affords Defendants s following arrest  
 7 and prior to actual trial, mere detention pursuant to a valid warrant but in the face  
 8 of repeated protests of innocence will after the lapse of a certain amount of time  
 9 deprive the accused of "liberty . . . without due process of law." Baker, 443 U.S. at  
 10 145. Further, a detainee has "a constitutional right to be free from continued  
 11 detention after it was or should have been known that the detainee was entitled to  
 12 release. " Cannon v. Macon County, 1 F.3d 1558, 1563 (11th Cir. 1993).

13       70.     Here, Defendants recklessly and with deliberate indifference to  
 14 Plaintiffs' right to due process violated state and federal law.

15       71.     The County of San Bernardino and Hesperia Unified School District  
 16 maintained, fostered and condoned an official policy, practice or custom of failing  
 17 to properly train and supervise its employees, including but not limited to  
 18 employees named herein, with respect to the proper and lawful procedures for  
 19 handling the arrest, detention, identification, prosecution and defense of persons,  
 20 including minors such as Plaintiffs, and of failing to promulgate proper policies  
 21 and procedures regarding the arrest, detention, identification, prosecution and  
 22 defense of persons, including minors such as Plaintiffs, and that this official  
 23 custom, policy or practice constituted deliberate indifference to the constitutional  
 24 and statutory rights of persons, such as Plaintiffs and was a direct and proximate  
 25 cause of Plaintiffs' damages.

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1       72. Because of the risk that persons -- especially juveniles who are and  
2 may at times be incapable of taking care of themselves and forcefully advocating  
3 on their own behalf -- will be improperly denied their legal rights as guaranteed by  
4 California state and federal law, the need for training and procedures to guard  
5 against such risks is obvious. However, despite this obvious risk, the County of  
6 San Bernardino and Hesperia Unified School District chose to ignore the problem,  
7 and to actively participate in the exacerbation of same by routinely sending  
8 untrained staff to abuse, terrorize and otherwise mistreat vulnerable minors in the  
9 sanctity of said minors' homes, according them a second tiered system of justice as  
10 described herein, thereby displaying an official custom, policy or practice which  
11 was and remains deliberately indifferent to the rights of juveniles and the general  
12 public who were likely to come into contact with the criminal justice system.

13       73. The conduct of Defendants and their employees violated Plaintiffs'  
14 rights under the following: the Fourth, Fifth, Sixth, and Fourteenth Amendments to  
15 the United States Constitution; Family Educational Rights and Privacy Act,  
16 California Constitution, Article 1, §§ 1, 7, 13, 14, and 24, California state law,  
17 including *inter alia*, California Education Code §§ 49073-49079.

18       74. Defendants, and all its Departments/Offices and Agencies stated and  
19 implicated herein, has and continues to act deliberately, recklessly, intentionally,  
20 maliciously, and/or with deliberate indifference and conscious disregard of  
21 Plaintiffs' rights. Further, all acts and/or omissions alleged to have been engaged  
22 in by Defendants is and continues to be engaged in with evil motive and intent,  
23 and in callous, reckless, and wanton disregard to the rights of minors, including  
24 Plaintiffs.

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**SECOND CAUSE OF ACTION**

75. Plaintiffs hereby incorporates the preceding paragraphs as though fully set forth herein.

76. Defendants individual departments/agencies/offices, which in practical effect operate as wholly separate entities within the County, agreed and conspired with each other and the San Bernardino Superior Court, Criminal Division, to deprive Plaintiffs of their statutory and constitutional rights guaranteed under, *inter alia*, the First, Sixth, and Fourteenth Amendments to the Constitution of the United States, as well as the equal protection of the laws and/or the equal privileged and immunities under the law. Said conduct was accomplished under the color of law in violation of 42 USC §1985(3).

77. As a direct and proximate result of the conspiracy and agreement of Defendants to interfere with Plaintiffs' statutory and constitutionally protected rights, Plaintiffs sustained damages in an amount to be proven at trial.

78. Plaintiffs are, and at all times herein mentioned were, a member of the class of persons for whose protection said Constitution, laws, and statutes were designed, and said Constitution, laws, and statutes were, at all times herein mentioned, in full force and effect. Defendants' violations of said Constitution, laws, and statutes led to the stated damages and injuries Plaintiffs' sustained as alleged herein.

79. As a direct and proximate result of the acts of Defendants, and each of them, and their intentional and negligent violation of such laws and statutes, Plaintiffs have incurred and will incur damages as previously alleged. These amounts are not presently known, and Plaintiffs will amend this complaint when they have been fully ascertained.

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1           80. Defendants 's employees violated Plaintiffs 's rights under the  
2 following: the Fourth, Fifth, Sixth, and Fourteenth Amendments to the United  
3 States Constitution; Family Educational Rights and Privacy Act, California  
4 Constitution, Article 1, Sections 1, 7, 13, 14, and 24 and applicable case law,  
5 including *inter alia*, California Education Code §§ 49073-49079

6

7

8           **THIRD CAUSE OF ACTION**

9           ***Right to Familial Association (First and Fourteenth Amendment)***

10          81. Plaintiffs hereby incorporates the preceding paragraphs as though  
11 fully set forth herein.

12          82. It is well established that a parent has a "fundamental liberty interest"  
13 in "the companionship and society of his or her child" and that "[t]he state's  
14 interference with that liberty interest without due process of law is remediable  
15 under [42 U.S.C. S] 1983." Kelson v. City of Springfield, 767 F.2d 651, 654-55  
16 (9th Cir. 1985) (citing Santosky v. Kramer, 455 U.S. 745, 753 (1982)). "[T]his  
17 constitutional interest in familial companionship and society logically extends to  
18 protect children from unwarranted state interference with their relationships with  
19 their parents." Smith v. City of Fontana, 818 F.2d 1411, 1418 (9th Cir. 1987)  
20 overruled on other grounds, Hodges v. De La Vina, 199 F.3d 1037 (9th Cir. 1999).

21          83. Moreover, "the First Amendment protects those relationships,  
22 including family relationships, that presuppose 'deep attachments and commitments  
23 to the necessarily few other individuals with whom one shares not only a special  
24 community of thoughts, experiences, and beliefs but also distinctively personal  
25 aspects of one's life.' " Board of Dir. v. Rotary Club, 481 U.S. 537, 545 (1987); see  
26 also Conti v. City of Fremont, 919 F.2d 1385, 1388-89 (9th Cir. 1990)

27          //

28          //

84. Plaintiff A.R. had his relationship with his family undermined by the unlawful treatment and baseless charges levied against him by Defendants.

85. The reckless, intentional and deliberate acts and omissions of Defendants was a direct and legal cause of the deprivation of Plaintiffs' constitutionally protected right under the First and Fourteenth Amendments to the association, companionship and society of a son to his mother.

86. The reckless, intentional and deliberate acts and omissions of Defendants was a direct and legal cause of the deprivation of Plaintiffs 's' constitutionally protected right under the First and Fourteenth Amendments to the association, companionship and society of a son to his parents.

#### **FOURTH CAUSE OF ACTION**

### ***Right to Counsel (Sixth Amendment)***

87. Plaintiff hereby incorporates the preceding paragraphs as though fully set forth herein.

88. The right to counsel under the Sixth Amendment attaches when adversary criminal proceedings are initiated against an individual "by way of formal charge, preliminary hearing, indictment, information, or arraignment. "United States v. Gouveia, 467 U.S. 180, 188 (1984).

89. As stated herein, Plaintiff A.R. a minor, was denied the right to counsel at every stage of his criminal proceeding and was detained, upon information and belief, for 30 days without being afforded an attorney until he finally released from Defendants' control and/or custody or not long before said release occurred.

WHEREFORE, Plaintiffs pray judgment against the Defendants and each of them as follows:

1. For general damages including pain and suffering and emotional distress, according to proof;
2. For compensatory damages according to proof;
3. For special damages according to proof;
4. For exemplary and punitive damages except against Does 1-10 Defendants, except the municipal defendants, in an amount to be determined according to proof;
5. For reasonable attorneys fees;
6. For reasonable attorney's fees pursuant to 42 U.S.C. § 1988, and § 1988 of Title 42 of the United States Code; 42 U.S.C. § 12205; and 29 U.S.C. § 794a; Government Code § 12965 (b); and California Civil Code § 52.1; and California and Federal Statutes as appropriate and according to proof.
7. For lost income, past and future income, according to proof;
8. For medical, future medical, rehabilitation, and related expenses, according to proof;
9. For costs of suit herein incurred; and
10. For such other and further relied as the court deems proper.

Dated: April 15, 2010

THE LAW OFFICES OF VINCENT W. DAVIS  
& ASSOCIATES

BY:

Vincent W. Davis, Esq.

Danielle K. Little, Esq.

Attorneys for Plaintiffs

Attorneys for Plaintiffs A.R. and S.R.

## DEMAND FOR JURY TRIAL

PLAINTIFFS hereby respectfully demand a jury trial, as provided by Rule 38(a) of the Federal Rules of Civil Procedure, Rule 38 and Central District of California Local Rule 3.4.10.1.

RESPECTFULLY SUBMITTED,

Date: April 15, 2010

## Law Offices of Vincent W. Davis & Associates

BY:

Vincent W. Davis, Esq.

Danielle K. Little, Esq.

WILLIAM H. ELLIOTT, Esq.  
Attorneys for Plaintiffs

Attorneys for Plaintiffs A.R. and S.R.

FEDERAL COMPLAINT

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Dean D. Pregerson and the assigned discovery Magistrate Judge is Margaret A. Nagle.

The case number on all documents filed with the Court should read as follows:

**CV10- 3528 DDP (MANx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

**=====**  
**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

**Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

**Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

**Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET

**I (a) PLAINTIFFS** (Check box if you are representing yourself )  
 A.R. and S.R. by and through their  
 Guardian ad Litem, Elizabeth Rodriguez

**DEFENDANTS**  
 County of San Bernardino, et al.

**(b) Attorneys** (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

Vincent W. Davis, Esq., SBN 125399 / Danielle K. Little, Esq., SBN 239784  
 Law Offices of Vincent W. Davis & Associates  
 150 N. Santa Anita Ave. #200, Arcadia, CA 91006; Tel: (626)446-6442

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an X in one box only.)

1 U.S. Government Plaintiff  3 Federal Question (U.S. Government Not a Party)  
 2 U.S. Government Defendant  4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only**  
(Place an X in one box for plaintiff and one for defendant.)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. ORIGIN** (Place an X in one box only.)

1 Original  2 Removed from  3 Remanded from  4 Reinstated or  5 Transferred from another district (specify):  6 Multi-District Litigation  7 Appeal to District Judge from Magistrate Judge  
 Proceeding State Court Appellate Court Reopened

**V. REQUESTED IN COMPLAINT: JURY DEMAND:**  Yes  No (Check 'Yes' only if demanded in complaint.)CLASS ACTION under F.R.C.P. 23:  Yes  No**MONEY DEMANDED IN COMPLAINT: \$****VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
 Civil Rights 42 U.S.C. section 1983; Conspiracy 42 U. S. C. 1985 (3); Right to Familial Association (First & Fourteenth Amendment); Right to Counsel (Sixth Amendment)**VII. NATURE OF SUIT** (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER PETITIONS	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL PROPERTY	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 740 Railway Labor Act	
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage	<input type="checkbox"/> 790 Other Labor Litigation	
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 395 Product Liability	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	PROPERTY RIGHTS	
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 820 Copyrights	
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 830 Patent	
<input type="checkbox"/> 850 Securities/Commodities/ Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 840 Trademark	
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 443 Housing/Accommodations	SOCIAL SECURITY	
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 861 HIA (1395ff)	
<input type="checkbox"/> 891 Agricultural Act	REAL PROPERTY	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 862 Black Lung (923)	
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee	<input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 864 SSID Title XVI	
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 865 RSI (405(g))	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 240 Torts to Land		<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 245 Tort Product Liability		<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	
<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 660 Occupational Safety /Health		
			<input type="checkbox"/> 690 Other		

CV10-3528

FOR OFFICE USE ONLY: Case Number:

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed?  No  Yes  
If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case?  No  Yes  
If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

(Check all boxes that apply)  A. Arise from the same or closely related transactions, happenings, or events; or  
 B. Call for determination of the same or substantially related or similar questions of law and fact; or  
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.  
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
San Bernardino County	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.  
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

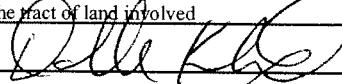
County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
San Bernardino County	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.  
**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
San Bernardino County	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date May 5, 2010

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))